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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,108	01/11/2002	Timothy Matthew Bronson	0201-BRON-US	8071

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EXAMINER
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GREEN, CHRISTY MARIE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/044,108

Applicant(s)

BRONSON ET AL.

Examiner

Christy M Green

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5,7,9-14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) 6,8 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,9-14 and 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This is a first office action for serial number 10/044108, entitled Valley Truss Uplift Resistance Strap with Wedge and Method of Use, filed on January 11, 2002.

#### ***Response to Election Restriction***

Applicant's election with traverse of the restriction in Paper No. 4 is acknowledged. The traversal is on the ground(s) that all five species are included as a part of the proposed valley truss uplift resistance strap with wedge invention. This is not found persuasive because there are several different embodiments of a uplift resistant strap as defined within the previous office action, for example, the embodiment of group 1, figures 1-4, the base member extends forwardly of the strap as well as extends in the back, and has an opening in the back side of the wedge; in group 2, figures 5-9, the strap is completely different, there are rounded ends as well as the base members are folded down and are integral with the side portions of the wedge, which would be made from a completely different type of metal blank as in groups 1 or 4; as in Group 4, figures 13-19, there is no part of the base member that extends forwardly of the wedge. Also, it should be noted that within the applicants "Brief Description of Drawings" applicant states that there are several different embodiments defining them by, "first", "second", "third", and so on.

The requirement is still deemed proper and is therefore made FINAL.

Since applicant did not state within the response which claims are readable on the elected species, the examiner read on as many claims, as best understood, to the elected species of Group 4, figures 13-19.

Claims 6, 8 and 15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 4.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the taller end, an opposed tapered end, manufactured valley truss component combination, structural woods members, manufactured wood roof truss systems, and opposing sides of the wedge must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: within claims 1 and 12, it is unclear what exactly the manufactured valley truss component combination is supposed to be, is it the uplift resistance device, or the truss component, or both? Also, what are the structural woods members and the manufactured wood roof truss system, the only reference to a truss is to a standard roof truss (18) and a valley truss (16), therefore it is unclear exactly what

these limitations are supposed to be. Also, within claims 3 and 16, it should be noted that the strap having a solid wedge is interpreted as to not be solid in volume, but solid as a three-dimensional figure or a three-sided figure as in figure 19.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "can be" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are a part of the claimed invention or not.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 47, 9, 11-14, 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Leavens, US Patent # 4,965,980.

Leavens discloses a uplift resistance device comprising a one-piece strap (10) with a wedge (see attached figure 2) formed between a substantially planar base member (20- figure 1) and a web member (42) extending upwardly from the base

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member (by 46) an acute angle (see attached figure 2), the wedge having a taller end and an opposed tapered end (see attached figure 2), the taller end being adjacent to the web member (42) and the base member extending rearwardly beyond the taller end of the wedge (were 22 points to – figure 1), a plurality of fastener holes (38, 44) formed through the base member (20) and the web member (42); the strap is made from molded construction (column 2, lines 24-28); one additionally fastener hole (38) through the base member (22) in a position under the wedge (figure 3) and wherein the bottommost one of the fastener holes through the web member is aligned with the additional fastener hole and configured to allow insertion of a fastener (80) through the wedge (figure 1); the strap is made from folded construction having a hollow wedge (see attached figure 2); the wedge has open sides (figure 2) and a taller end with a closed configuration (see figure 2); a method for use in roof construction (interpreted as the deck being a roof also) comprising the steps of providing a plurality of one-piece straps (column 1, line 6), providing a plurality of fasteners (80, 82), manufactured valley truss components (90), and a manufactured wood roof (interpreted to be a deck – column 2, lines 15-23) truss system, selecting one of the straps (10) for each of the valley truss components (90), inserting a different one of the fasteners (82) through each one of the fastener holes in the web member (42), inserting a different one of the fasteners (80) through each one of the fastener holes in the base member (22); and, the bottommost portion of each of the web members (42) is *adapted to* function as the taller end of the wedge (see attached figure 2), and further comprising the step of inserting one of the fasteners (80, 82) through the bottommost portion (42) and through the

wedge (see attached figure 2) prior to inserting the same fastener through the base member (figure 2 – interpreted that the fastener is inserted through the wedge before inserted into the base member).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leavens in view of Stuart, US Patent # 5,335,469.

Leavens discloses the claimed invention as stated above in claim 1, except for the strap has a solid wedge. Stuart teaches that it is known in the art to provide a strap that has a solid wedge (solid meaning a three-sided figure, as applicant has disclosed within the drawings, and not solid in volume). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a vertical back portion of a wedge as taught by Stuart with the wedge of Leavens in order to assist in providing additional resistance to uplift (column 2, lines 1-2) and to avoid further splitting of the rafter (column 2, line 9).

Claims 5 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leavens.

Leavens discloses the claimed invention as stated above in claims 1 and 12, including one of the fasteners holes (44) through the web member (42) that is closest in

proximity to the base member is laterally centered (figure 1), and Leavens also states that the holes (44) are preferably in alignment for the convenience of fabrication (column 2, line 68 and column 3, lines 1-3). Leavens does not teach that the remaining ones of the fastener holes through the web member are not laterally centered, however it would have been an obvious matter of design choice to provide off centered holes in the web member, since applicant has not disclosed that non laterally centered holes solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the holes laterally centered on the web member.

Claims 10 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leavens in view of Calhoun, US Patent # 6,328,013.

Leavens discloses the claimed invention as stated above in claim 1, except for the base member has a two-layer construction. Calhoun teaches that it is known in the art to provide a two-layer construction of materials. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the two-layer construction of materials as taught by Calhoun with the base member of Leavens in order to improve the strength of the base member (column 1, lines 60-63).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christy M Green whose telephone number is 703-308-9693. The examiner can normally be reached on M-F 8:00-4:00.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
Cg

September 5, 2003



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600